

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25767-2017

Date of Decision: September 05, 2018

Archana Mittal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Harjot Singh Bedi, Advocate for the petitioner.

Mr.R.D.Sharma, DAG, Haryana.

Mr.Deepak Balyan, Advocate for HUDA.

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SURYA KANT, J.(ORAL)

The petitioner seeks a writ of mandamus to direct HUDA Authorities to issue her allotment letter for Plot No.216, Sector 46, Gurugram, measuring 4 marla or allot her an alternative plot in lieu of earlier allotment of Plot No.945, Sector 45, Gurugram.

[2] The facts are like this:-

[3] The petitioner applied for allotment of 4 marla size residential plot in Sector 45, Gurugram in July, 2000 alongwith 10% earnest money. She was successful in draw of lots for Plot No.945, Sector 45, Gurugram. Allotment letter dated 05.03.2001 (Annexure P-1) was issued to her, Clause Nos.4 & 5 whereof are to the following effect:-

“4. In case you refuse to accept this allotment you shall communicate your refusal by a registered letter within 30 days from the date of issue of this allotment letter failing

which this allotment shall stand cancelled and earnest money deposited by you shall be forfeited to authority & you shall have no claim for damages.

5. In case you accept this allotment, please send your acceptance by registered post alongwith an amount of Rs.66603 within 30 days from the date of issue of this allotment letter which together with an amount of Rs.44402 paid by you alongwith your application form as (sic) earnest money will constitute 25% of the total tentative price.”

[4] It was further provided that balance amount could be paid by the petitioner in lump sum without interest within 60 days or in six annual installments alongwith interest @ 15% per annum.

[5] It may, thus, be seen that the petitioner was required to deposit balance 15% of the allotment price to constitute 25% of the total tentative price within 30 days of the receipt of the allotment letter. The petitioner, however, refused to accept the allotment and vide her application dated 03.04.2001 (Annexure P-2), she requested that the allotment may be cancelled and 10% amount deposited by her may be refunded.

[6] After almost 2 years, the petitioner wrote a letter dated 07.03.2003 (Annexure P-3), complaining *inter alia* that she had not received the earnest money, hence her request for allotment of plot in any other sector may be considered sympathetically. The letter was duly replied by HUDA Authorities on 06.05.2013 informing that since her refusal to accept allotment was received after 30 days, she was not entitled to any refund.

[7] However, due to an alleged inadvertent error on the part of Estate Office, the name of the petitioner was included in a mini draw of lots

held for allotment of alternative plots to those who had earlier been allotted some disputed plots. Accordingly, alternate Plot No.216, Sector 46, Gurugram stood allotted to the petitioner which she promptly accepted vide letter dated 04.02.2015 (Annexure P-11). Meanwhile, HUDA Authorities realized their mistake and declined to issue any allotment letter to the petitioner, giving rise to this writ petition.

[8] We have heard learned counsel for the parties and gone through the record. It is an admitted fact that the petitioner did not deposit the balance 15% earnest money as per Clause 5 of the allotment letter dated 05.03.2001. On the other hand, she refused to accept and sought refund of 10% earnest money deposited alongwith the application. The offer of allotment, thus, never materialised into a concluding contract. No allotment, therefore, subsisted in favour of the petitioner, in lieu whereof an 'alternative plot' could be allotted to her in the year 2014. It was a sheer mistake on the part of the Estate Office that the name of the petitioner was also included in mini draw of lots, which was actually held under the directions of this Court for the purpose of allotment of alternative plots to those whom disputed plots had been allotted. The case of the petitioner does not fall in any such category.

[9] In this view of the matter, no direction can be issued to issue allotment letter of the original plot or an alternative plot in favour of the petitioner.

[10] However, having regard to all the compelling circumstances, the writ petition is disposed of with a direction to HUDA Authorities that if,

of a 4 marla plot at the current allotment price may be sympathetically considered within a period of three months.

[11] Similarly, the petitioner shall be at liberty to represent separately for the refund of earnest money deposited by her while applying in the year 2000 and such a request may be considered sympathetically.

(SURYA KANT)
JUDGE

September 05, 2018
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |